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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,621	10/22/2001	Dean G. Rosenberg	88256-9015-01	3260
23409	7590	06/10/2005	EXAMINER	
MICHAEL BEST & FRIEDRICH, LLP 100 E WISCONSIN AVENUE MILWAUKEE, WI 53202			ZEENDER, FLORIAN M	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/008,621

**Applicant(s)**

ROSENBERG ET AL.

**Examiner**

F. Ryan Zeender

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 6-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION*****Election/Restrictions***

Newly submitted claims 28-37 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The newly submitted claims include the limitation of allowing a **second user** to reconfigure the code such that the inventory limit of a first user is reconfigured. This limitation, in combination with the other limitations of the newly submitted claims, renders the new claims independent and distinct from previously examined claims 1-5.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 28-37 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over in view of Morello et al. '906.

Morello et al. disclose a method of tracking an item dispenser inventory at a point-of-use (see for example Col. 2, lines 15-25), the method comprising: establishing

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a network of computerized item dispensers (See for example Col. 12, lines 42-55), each dispenser containing inventory; establishing a computer data center 252, the data center being in electronic communication with the network; establishing allocation codes within the data center (See for example Col. 13, lines 47-55 and Col. 12, lines 58-60), the allocation codes limiting the extent to which inventory is allowed to be withdrawn from the dispensers (See for example Col. 14, lines 12-37); identifying a user at one of the dispensers (See for example Cols. 13-14); allowing the user to reconfigure the allocation codes (See for example Col. 18, lines 41-44); prompting a user to enter a login allocation code (See Col. 13, lines 47-50); prompting a user to enter a product allocation code (See for example Col. 13, lines 67-68); and prompting the user to remove a quantity of items (See for example Col. 16, lines 1-7).

Morello et al. lack the teaching of allowing the user to reconfigure the allocation codes from the one of the dispensers; and displaying a user-specific default value for an allocation code.

Morello et al., however, do teach that it is well known in the art to vary programmable features of a single machine (See for example Col. 18, lines 51-52).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Morello et al. to include allowing the user to reconfigure the allocation codes from the one of the dispensers in order to service individual dispensers when the network is "down" (i.e., not functioning properly).

It would have been further an obvious design choice to one of ordinary skill in the art at the time of the invention to modify Morello et al. to display a user-specific default

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value for an allocation code in order for the controller to verify the identity of a service representative (See Col. 13, lines 52-58) when the service representative inserts his/her card into the dispenser.

***Allowable Subject Matter***

Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments filed 4/1/2005 have been fully considered but they are not persuasive.

On page 6, third paragraph of the REMARKS, the applicant states that Morello does not teach or suggest allowing the user to reconfigure the allocation codes from the one of the dispensers, as required by claim 1. While this may be true, the Examiner has addressed this limitation in his obviousness rejection above, and provided reasons for modifying the reference. The rejection is proper.

On pages 6-7, the applicant argues that Morello's "programmable features" do not include "limiting the extent to which inventory is allowed to be withdrawn from the dispenser". This argument is, however, not persuasive in that Morello teaches "programs relating to the moving message display 31, the instructional lead-through for the customer's assistance, price structure, tax tables, etc." (emphasis added). Morello also teaches that "each machine may maintain its own internal record source with respect to cardholders who are allowed to use the machine" (Col. 14, lines 13-16).

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Because each machine “**may**” maintain its own internal record, it would have been obvious to one of ordinary skill to include this internal record, when it is present, in the list of programmable features. And further, because Morello does teach maintaining a record of who is allowed to use the machine, this teaching effectively anticipates the limitation of “limiting the extent to which inventory is allowed to be withdrawn from the dispenser”.

The applicant then argues on page 7, last paragraph, that Morello teaches away from the claimed limitations. However, this argument is not persuasive in that Morello teaches that it is old and well known to modify each machine individually (Col. 18, line 50-52), and although Morello teaches a **preferred** method of modifying the machines, this does not in any way teach away from the previously known method.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Ryan Zeender whose telephone number is (571) 272-6790. The examiner can normally be reached on Monday-Friday, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached on (571) 272-6788. The receptionist's phone number for the Technology center is (571) 272-3600.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

**F. RYAN ZEENDER  
PRIMARY EXAMINER**

F. Zeender  
Primary Examiner, A.U. 3627  
June 8, 2005



6/8/05